

APR 19
LAWYER SERVICES

(a) Purpose. The purpose of this rule is to protect the public, to assist lawyers in the performance of their duties and responsibilities in the representation of clients, to maintain and improve the integrity of the legal profession, and to promote the interests of justice.

(b) Lawyers' Assistance Program (LAP).

(1) Authorization. The Washington State Bar Association is authorized to create a program to help prevent and alleviate problems that may detrimentally influence a lawyer's performance, including physical illnesses, emotional problems or addictions.

(2) Confidentiality. Confidential communications between a lawyer-client and staff or peer counselors of the Lawyers' Assistance Program shall be privileged against disclosure without the consent of the lawyer-client to the same extent and subject to the same conditions as confidential communications between a client and psychologist.

(3) Exoneration From Liability.

(i) Bar Association and Its Agents. No cause of action shall accrue in favor of any person, arising from any action or proceeding pursuant to these rules, against the Bar Association, or its officers or agents (including but not limited to its staff, members of the Board of Governors, or any other individual acting under the authority of these rules) provided only that the Bar Association, officer or agent shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The Bar Association shall provide defense to any action brought against an officer or agent of the Bar Association for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein.

(ii) Other persons. Communications to the Bar Association, Board of Governors, staff, or any other individual acting under the authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

(c) Fee Arbitration Program. [Reserved.]

(d) Law Office Management Assistance Program.

(1) Authorization. The Washington State Bar Association is authorized to create a program to help improve the quality of legal services by assisting lawyers to manage better their offices and improve the professional delivery of legal services.

(2) Confidentiality. Information obtained by staff or agents of the Law Office Management Assistance Program shall be confidential unless:

(i) the assisted lawyer consents to disclosure;

(ii) disclosure, based upon reasonable belief, is necessary to prevent the assisted lawyer from committing a crime; or

(iii) pursuant to court order.

(e) Professional Responsibility Program.

(1) Authorization. The Washington State Bar Association is authorized to maintain a program to assist lawyers in complying with their obligations under the Rules of Professional Conduct, thereby enhancing the quality of legal representation provided by Washington lawyers.

(2) Professional Responsibility Counsel. "Professional responsibility counsel" denotes a lawyer employed or appointed by the Bar Association to act as counsel on the Bar Association's behalf in performing duties under part (e) of this rule, and any other lawyer employed or appointed by the Bar Association, including but not limited to disciplinary counsel or general counsel, whenever such lawyer is temporarily performing those duties.

(3) Ethics Inquiries. Any member of the Bar Association, or any lawyer or legal intern permitted by rule to practice law in this state, may direct an ethics inquiry to professional responsibility counsel. Such inquiries should be made by telephone to the Bar Association's designated ethics inquiry telephone line. The provisions of this rule also apply to ethics inquiries initially submitted in writing, including facsimile, e-mail, or other electronic means, but do not apply to requests for written ethics opinions directed to the Bar Association's Rules of Professional Conduct Committee or its equivalent.

(4) Scope. An inquirer may request the guidance of professional responsibility counsel in identifying, interpreting or applying the Rules of Professional Conduct as they relate to his or her prospective ethical conduct. If the inquiry presents a set of facts, those facts should ordinarily be presented in hypothetical format. Professional responsibility counsel provides only informal guidance. Professional responsibility counsel provides no legal advice or opinions, and the inquirer is responsible for making his or her own decision about the ethical issue presented. The inquiry shall be declined if it (i) requires analysis or resolution of legal issues other than those arising under the Rules of Professional Conduct; (ii) seeks an opinion about the ethical conduct of a lawyer other than the inquirer; or (iii) seeks an opinion about the ethical propriety of the inquirer's past conduct.

(5) Limitations and Inadmissibility. Neither the making of an inquiry nor the providing of information by professional responsibility counsel under this rule creates a client-lawyer relationship. Any information or opinion provided during the course of an ethics inquiry is the informal, individual view of professional responsibility counsel only. No information relating to an ethics inquiry, including the fact that an inquiry has been made, its content, or the response thereto, may be asserted in response to any grievance or complaint under the Rules for Enforcement of Lawyer Conduct, nor is such information admissible in any proceeding under the Rules for Enforcement of Lawyer Conduct.

(6) Records. Professional responsibility counsel shall not make or maintain any permanent record of the identity of an inquirer or the substance of a specific inquiry or response. Professional responsibility counsel may keep records of the number of inquiries and the nature and type of inquiries and responses. Such records shall be used solely to aid the Bar Association in developing the Professional Responsibility Program and developing additional educational programs. Such records shall be exempt from public inspection and copying and shall not be subject to discovery or disclosure in any proceeding.

(7) Confidentiality. Communications between an inquirer and professional responsibility counsel are confidential and shall be privileged against disclosure except by consent of the inquirer

or as authorized by the Supreme Court. Professional responsibility counsel shall not use or reveal information learned during the course of an ethics inquiry except as RPC 1.9 would permit with respect to information of a former client. The provisions of RPC 8.3 do not apply to information received by professional responsibility counsel during the course of an ethics inquiry.

(f) Communications to the Association.
Communications to the Bar Association, Board of Governors, staff, or any other individual acting under the authority of this rule, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

[Adopted effective September 1, 2001; amended effective April 1, 2003; December 4, 2007; January 2, 2008; December 28, 2010.]
